

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

IN RE:

CHRISTOPHER D SOMERS,

DEBTOR

Case No.: BK-20-11329-SAH
Chapter 7

**MOTION FOR RELIEF FROM AUTOMATIC STAY AND ABANDONMENT OF
PROPERTY AND BRIEF IN SUPPORT THEREOF AND NOTICE OF OPPORTUNITY
FOR HEARING**

COMES NOW, U.S. BANK NATIONAL ASSOCIATION, (hereinafter referred to as Movant) and pursuant to the provisions of Title 11 U.S.C §361, §362 and §554, moves the Court to grant it relief from the automatic stay and for an order of abandonment of the property hereinafter described. In support of its Motion, Movant alleges and states as follows:

1. That the original maker, Debtor, for a good and valuable consideration, made, executed and delivered to the Payee, a certain written promissory note; a true copy of said note and endorsements thereon, if any, is hereto attached, and made a part hereof.
2. As a part of the same transaction, and to secure the payment of said note and the indebtedness represented thereby, the said maker and Raylene L. Somers (Debtor's wife), being then the owners of the real estate hereinafter described, made, executed and delivered to the Payee, a real estate mortgage in writing, and therein and thereby mortgaged and conveyed to said mortgagee the following described real estate situated in Mcpherson County, State of Kansas, to-wit:

Lot Ten (10), Block Twenty-one (21), Original Town Site, McPherson, McPherson County, Kansas a/k/a 512 N Elm St, McPherson, KS 67460

with the buildings and improvements and the appurtenances, hereditaments and all other rights thereunto appertaining or belonging, and all fixtures then or thereafter attached or used in connection with said premises. A true and correct copy of said mortgage is attached hereto, and made a part hereof.

3. Debtor executed a promissory note secured by a mortgage or deed of trust. The promissory note is either made payable to Movant or has been duly indorsed. Movant, directly or through an agent, has possession of the promissory note. Movant is the original mortgagee or beneficiary, or the assignee of the mortgage or deed of trust. As the holder of the Note, Movant is duly authorized to bring this action.

4. Default has been made upon said note and mortgage. As of April 17, 2020, the loan is due for the March 1, 2019, and subsequent payments with an outstanding principal balance of \$104,284.92 plus accruing interest, attorney fees, costs and expenses, and other allowable charges. Debtor only references the subject property and debt in Schedule E, 4.14 (Doc. 1, p. 23) along with referencing a foreclosure filed against the property.

5. The mortgage of Movant constitutes a valid lien against the mortgaged property, prior and superior to any right, title, lien, estate or interest of the Debtor or Estate.

6. Movant will suffer irreparable injury, loss and damage unless the automatic stay is terminated so as to permit Movant to commence with foreclosure action.

7. Notice of the Motion has been afforded to the Trustee, the Debtor and all parties claiming an interest in the subject property.

WHEREFORE, Movant requests that Movant, through its agents, servicers and representatives is permitted to contact Debtor and/or Debtor's counsel for the purpose of engaging in discussions and consideration for possible loss mitigation options, solutions and/or resolutions

with regard to the underlying mortgage and note, including, but not limited to loan modification or other loss mitigation alternatives.

WHEREFORE, Movant moves the Court for an Order vacating or modifying the automatic stay herein as provided by 11 U.S.C. §362 and directing the Trustee herein to abandon the mortgaged property as authorized by 11 U.S.C. §554 so as to permit Movant and other interested parties to enforce their liens against the subject property. Debtor executed a promissory note secured by a mortgage or deed of trust. The promissory note is either made payable to Creditor or has been duly endorsed. Creditor, directly or through an agent, has possession of the promissory note. Creditor is the original mortgagee of beneficiary or the assignee of the mortgage or deed of trust.

NOTICE OF OPPORTUNITY FOR HEARING

Your rights may be affected. You should read this document carefully and consult your attorney about your rights and the effect of this document. If you do not want the Court to grant the requested relief, or you wish to have your views considered, you must file a written response or objection to the requested relief with the Clerk of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Avenue, Oklahoma City, OK 73102 no later than 14 days from the date of filing of this request for relief. You should also mail a file-stamped copy of your response or objection to the undersigned Movant attorney (and others who are required to be served) and file a certificate of service with the Court. If no response or objection is timely filed, the Court may grant the requested relief without a hearing or further notice. The 14 day period includes the 3 days allowed for mailing provided for the Rule 9006(f) Fed.R.Bankr. Proc.

U.S. BANK NATIONAL ASSOCIATION,

By:

s/ Matthew J. Hudspeth

MATTHEW J. HUDSPETH - #14613

JIM TIMBERLAKE - #14945

Baer Timberlake, P.C.

4200 Perimeter Center, Suite 100

Oklahoma City, OK 73112

Telephone: (405) 842-7722

Fax: (918) 794-2768

mhudspeth@baer-timberlake.com

Attorney for Movant

CERTIFICATE OF SERVICE

I hereby certify that I mailed a true and correct copy of the above and foregoing Motion with postage thereon fully prepaid to all parties claiming an interest in the subject property as listed below, and to those parties listed on the attached Creditor's Mailing Matrix, on April 28, 2020.

Christopher D Somers
520 S Sooner Rd
Oklahoma City, OK 73110

Raylene L. Somers
721 NW 92nd St
Oklahoma City, OK 73114-2905

The following persons should have received notice of the above and foregoing instrument on the same day it was filed by the Court's CM/ECF Electronic Noticing System.

Ginger D. Goddard
224 West Gray Street, Suite 202
Norman, OK 73069

Joshua L Farmer
Taylor C Stein Attorney at Law PC
1101 SW C Ave
Lawton, OK 73501

By: s/ Matthew J. Hudspeth
MATTHEW J. HUDSPETH - #14613
JIM TIMBERLAKE - #14945
Baer Timberlake, P.C.
4200 Perimeter Center, Suite 100
Oklahoma City, OK 73112
Telephone: (405) 842-7722
Fax: (918) 794-2768
mhudspeth@baer-timberlake.com
Attorney for Movant